

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
EDWARD CARTER, FRANK FIORILLO, KEVIN
LAMM, JOSEPH NOFI, and THOMAS SNYDER,

Plaintiffs,

v.

Case No. 07 CV 1215 (SJF)(ETB)

INCORPORATED VILLAGE OF OCEAN BEACH;
MAYOR JOSEPH C. LOEFFLER, JR., individually
and in his official capacity; former mayor NATALIE K.
ROGERS, individually and in her official capacity;
OCEAN BEACH POLICE DEPARTMENT; ACTING
DEPUTY POLICE CHIEF GEORGE B. HESSE,
individually and in his official capacity; SUFFOLK
COUNTY; SUFFOLK COUNTY POLICE
DEPARTMENT; SUFFOLK COUNTY DEPARTMENT
OF CIVIL SERVICE; and ALISON SANCHEZ,
individually and in her official capacity,

Defendants.
-----X

**AFFIDAVIT OF JOSEPH NOFI IN SUPPORT OF PLAINTIFFS'
RULE 56.1 COUNTER-STATEMENTS OF MATERIAL FACTS IN DISPUTE**

STATE OF NEW YORK)
)ss.:
COUNTY OF SUFFOLK)

I, Joseph Nofi, hereby declare and state:

1. I am a Plaintiff in the above-captioned matter, and have brought this action against the Incorporated Village of Ocean Beach ("Ocean Beach"), certain of its officials (collectively, "Ocean Beach Defendants"), Suffolk County, Suffolk County Department of Civil Service and one of its officials (collectively, "County Defendants") (all Defendants, collectively, "Defendants"), for the unlawful termination of my employment as an Ocean Beach Police Officer on April 2, 2006, and for events related to my termination, including

Defendants' defamation and retaliation against me.

2. In addition to the facts attested to in my deposition, the following is additional information concerning my employment with the Ocean Beach Defendants and termination from my position as an Ocean Beach Police Officer with the Ocean Beach Police Department ("OBPD").

3. During my employment with Ocean Beach, I expressed opposition to conduct of Ocean Beach employees and officials that I believed to be unlawful, corrupt, and/or improper, out of concern for the public and residents of Ocean Beach, as well as for myself and my fellow officers. In doing so, I acted as a concerned private citizen, knowing that it was not part of my duties as an Ocean Beach Police Officer to express opposition to such conduct.

4. I voiced my opposition to the employment of OBPD Officers who were not certified by Suffolk County Civil Service to work as Police Officers in Ocean Beach and did not know Ocean Beach and Suffolk County emergency police radio codes, which created a threat to public safety and to the safety of fellow OBPD Officers.

5. I voiced my opposition to Defendant Hesse ordering me not to intervene when I observed an intoxicated OBPD Officer assaulting a woman, while Frank Fiorillo was attempting to restrain the intoxicated Officer. Defendant Hesse berated, mocked and insulted Officer Fiorillo repeatedly, in the presence of other OBPD Officers, for attempting to intervene against the intoxicated Officer.

6. I voiced my opposition to uncertified OBPD Officers drinking in bars in Ocean Beach while on duty or in uniform.

7. I was present in the Ocean Beach Village Court when Bryan Vankoot pleaded

guilty to an assault charge in connection with a fight that took place in Houser's Bar in Ocean Beach on Halloween night 2004. I observed Mr. Vankoot crying. Mr. Vankoot stated to me that he did not do anything wrong, but that he believed he had no choice but to accept a guilty plea because he could not afford to hire lawyers to contest the charges. I also observed Gary Bosetti and George Hesse in the Courthouse at that time. Gary Bosetti and George Hesse were laughing at Mr. Vankoot while Mr. Vankoot was crying. I heard George Hesse state that he was responsible for the fact that Mr. Vankoot would "never be able to become a cop."

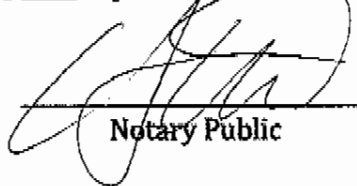
8. On one occasion, during the summer of 2005, Frank Fiorillo and I spoke with Steve Einig, a Trustee on the Ocean Beach Board of Trustees, and voiced our opposition to the unlawful conduct of Defendant Hesse and certain OBPD Officers. Trustee Einig responded by stating that he "knew what [we were] talking about," and that appropriate action would be taken.

9. Throughout my employment as an OBPD Officer, I regularly discussed the opposition to unlawful conduct and threats to public safety that I voiced Ocean Beach and OBPD authorities and officials with fellow OBPD Officers Frank Fiorillo, Kevin Lamm, Ed Carter and Tom Snyder, who are also Plaintiffs in this case. These Officers would, in turn, routinely inform me when they voiced similar opposition to Ocean Beach officials and authorities.

10. During my employment as an OBPD Officer, I heard Defendant Hesse and other OBPD Officers refer to Defendant Loeffler as the "Ocean Beach Police Liaison" on numerous occasions.

11. When Defendant Hesse terminated my employment on April 2, 2006, he claimed that he had to fire ten OBPD Officers due to budget cuts.

Sworn to before me this
29th day of December 2009


Notary Public

JASON D. SATTLER
Notary Public, State of New York
Qualified in Suffolk County
Reg. No. 01SA6204207
My Commission Expires 04-20-2013


JOSEPH NOFT 12/29/09